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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/678,186

10/06/2003

Dexter V. Bautista

DIX009-162

2337

7590

07/13/2006

DIEDERIKS & WHITELAW, PLC
124 Dillingham Square, #301
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EXAMINER

BEAUCHAINE, MARK J

ART UNIT

PAPER NUMBER

3653

DATE MAILED: 07/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/678,186	Applicant(s) BAUTISTA ET AL.	
	Examiner Mark J. Beauchaine	Art Unit 3653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 12-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-9, 12-16 and 18-21 is/are allowed.
- 6) ☒ Claim(s) 17 is/are rejected.
- 7) ☒ Claim(s) 22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office action is in response to the Applicant's amendment dated 27 April 2006. As stated in the Interview Summary dated 22 June 2006 the finality of previous final Office action dated 27 December 2005 is hereby withdrawn. Furthermore, any previous statement of reasons for the indication of allowable subject matter is hereby withdrawn.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Patent Number US 6,640,994 B2 by Chen ("Chen") in view of Patent Number 3,569,924 by Drake et al ("Drake") in view of Patent Number US 6,749,052 B2 by Carmichael ("Carmichael"). The vending method disclosed by Chen incorporates the acts of operating one of selector buttons 22-26, signaling one of dispensing devices 30-34 and dropping a selected product 36 through chute 35. Said acts read on the Applicant's steps of product selection, delivery and guiding, respectively. Chen further discloses the act of detecting product 36 falling between light emitters 42-46 and receptors 48-53

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to signal the completion of a vend operation (column 4, lines 16-23). Said act reads on the Applicant's step of signaling completion of a vend operation.

Although Chen discloses an optical sensing configuration in lieu of sound elements the use of sound sensor configurations to detect the passage of an object through a sound beam is well known in the art. Drake teaches the detection of an object through an ultrasonic beam 20 that is produced by transmitter 11 and detected by receiver 12. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the ultrasonic detection operation of Drake in the vend detection operation of Chen to provide an effective vend detection means.

Although Chen fails to disclose an act of indicating the removal of a product based upon the a beam disruption in the absence of a vend operation the use of such tampering detection means incorporated in vending apparatus is well known in the art. Carmichael teaches the detection of an objects dispensed from an apparatus via chute 132 by emitter/detector assembly 140. Said assembly 140 further signals the unauthorized removal of a product by detecting the presence of a cheating tool. Said detection by assembly 140 causes transistor 150 to be signaled (column 6, lines 4-29). Said signaling act reads on the Applicant's step of indicating the removal of a product without payment. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the cheating detection operation of Carmichael into the vending operation of Chen to provide an effective anti-cheating operation.

Allowable Subject Matter

Claims 1-9, 12-16 and 18-21 allowed. Claim 22 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 10, 11 and 23 have been canceled by the Applicant.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark J. Beauchaine whose telephone number is (571)272-6934. The examiner can normally be reached on 8:00AM through 5:00PM Mondays through Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (571)272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

mjb

A handwritten signature in black ink that reads "Kathy Matecki". The signature is written in a cursive, flowing style.

**KATHY MATECKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600**